



DEPARTMENT OF EDUCATION

34 CFR Chapter II

[Docket ID ED-2020-OESE-0037]

Final Priorities, Requirements, Definitions, And Selection
Criteria--Promise Neighborhoods (PN) Program

AGENCY: Office of Elementary and Secondary Education,
Department of Education.

ACTION: Final priorities, requirements, definitions, and
selection criteria.

SUMMARY: The Assistant Secretary for the Office of
Elementary and Secondary Education announces priorities,
requirements, definitions, and selection criteria under the
PN program, Assistance Listing Number 84.215N. The
Assistant Secretary may use one or more of these
priorities, requirements, definitions, and selection
criteria for competitions in fiscal year (FY) 2021 and
later years. We take this action to make program
improvements based on lessons learned over the last decade
and to improve program outcomes.

DATES: These priorities, requirements, definitions, and
selection criteria are effective [INSERT DATE 30 DAYS AFTER
DATE OF PUBLICATION IN THE FEDERAL REGISTER].

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SUPPLEMENTARY INFORMATION:

Purpose of Program: The PN program is authorized under the Elementary and Secondary Education Act of 1965, as amended (ESEA). The purpose of the PN program is to significantly improve the academic and developmental outcomes of children living in the most distressed communities of the United States, including ensuring school readiness, high school graduation, and access to a community-based continuum of high-quality services. The program serves neighborhoods with high concentrations of low-income individuals; multiple signs of distress, which may include high rates of poverty, childhood obesity, academic failure, and juvenile delinquency, adjudication, or incarceration; and schools implementing comprehensive support and improvement activities or targeted support and improvement activities under section 1111(d) of the ESEA. All strategies in the continuum of solutions must be accessible to children with disabilities and English learners.

Program Authority: 20 U.S.C. 7273-7274.

We published a notice of proposed priorities, requirements, definitions, and selection criteria (NPP) for this program in the *Federal Register* on June 29, 2020 (85

FR 38801). The NPP contained background information and our reasons for proposing the particular priorities, requirements, definitions, and selection criteria.

Except for minor editorial and technical revisions, there are no differences between the proposed priorities, requirements, definitions, and selection criteria and these final priorities, requirements, definitions, and selection criteria.

Public Comment: In response to our invitation in the NPP, eight comments were received, two of which were relevant to the proposed priorities, requirements, definitions, and selection criteria.

Generally, we do not address technical and other minor changes, or suggested changes the law does not authorize us to make under the applicable statutory authority. In addition, we do not address general comments that raised concerns not directly related to the NPP.

Analysis of Comments and Changes: An analysis of the comments and of any changes in the proposed priorities, requirements, definitions, and selection criteria follows.

Comment: One commenter noted the importance of child nutrition to successful outcomes and recommended that we include a focus on nutrition education.

Discussion: While we agree with the commenter that there is a need to focus on nutrition education, we do not believe that it is necessary to revise the proposed

priorities, requirements, definitions, or selection criteria to address this specific need. Under the program statute, applicants already have flexibility to propose interventions or strategies to address nutrition needs for children, their families, and community members.

Changes: None.

Comment: One commenter asserted that the application requirements are too burdensome for applicants that are small entities. The commenter also contended that, by allowing projects to focus on different issues impacting low-income children, it may be difficult to fairly compare applications in the selection process. The commenter stated that applications should be evaluated to determine whether the proposed project would significantly improve the academic outcomes of the children proposed to be served and whether the proposed project is supported by a needs analysis and evidence-based practices.

Discussion: We appreciate the comment regarding the size of the applying entity and burden level. In recognition of this relationship we have established three priorities to level the playing field for all applicants. Two of the three priorities, Non-Rural and Non-Tribal Communities, and Tribal Communities, can be found elsewhere in this NFP. The Rural Communities priority can be found in the program statute.

Regarding the commenter's concern that applications be fairly considered during the selection process, the peer review process is designed for applications to be evaluated against selection criteria alone; we instruct our peer reviewers not to compare applications. Additionally, applicants should design projects that meet the needs of their respective communities, a key element of a successful PN project. Our peer reviewers rely on the information provided in each application to determine whether an applicant's plan is appropriate for the context in which the project would operate.

Finally, we appreciate and agree with the comment that funded projects should improve academic outcomes of the students served and this can be achieved, in part, by ensuring that the proposed project is supported by a needs analysis and proposed interventions that are evidence-based. We maintained the requirement included in the NPP that the proposed project be supported by a needs analysis and that proposed interventions, to the extent possible, be evidence-based. We believe this requirement in addition to the evidence-based priority addresses the commenter's concern.

Changes: None.

Comment: None.

Discussion: In reviewing the proposed requirements further, we have decided to clarify that applicants must

describe proposed activities to address needs and the extent to which activities are evidence-based.

Additionally, an applicant must also describe its, or its partner organization's, if applicable, experience providing these activities, including any data demonstrating effectiveness. These two modifications are intended to strengthen projects and yield higher academic outcomes for students.

Changes: We have clarified the language to require applicants to provide a description of the proposed activities and to ensure that the proposed activities are in alignment with the applicant's identified needs. Also, the applicant must include the extent to which the proposed activities are evidence-based. Furthermore, the applicant must also describe its, or its partner organization's, if applicable, experience providing the proposed activities and any data demonstrating effectiveness in the application.

FINAL PRIORITIES:

Priority 1--Non-Rural and Non-Tribal Communities.

To meet this priority, an applicant must propose to implement a PN strategy that serves one or more non-rural or non-Tribal communities.

Priority 2--Tribal Communities.

To meet this priority, an applicant must propose to implement a PN strategy that serves one or more Indian Tribes.

Priority 3--Community-Level Opioid Abuse Prevention Efforts.

To meet this priority, an applicant must: (1) demonstrate how it will partner with an organization that conducts high-quality, community-level activities to prevent opioid abuse, such as an organization supported by an Office of National Drug Control Policy, Drug-Free Communities Support Program grant, in PN communities; (2) describe the partner organization's record of success in approaching opioid abuse prevention at the community level; and (3) provide, in its application, a memorandum of understanding between it and the partner organization responsible for managing the effort. The memorandum of understanding must indicate a commitment on the part of the applicant to coordinate implementation and align resources to the greatest extent practicable.

Priority 4--Evidence-Based Activities to Support Academic Achievement.

Projects that propose to use evidence-based (as defined in 34 CFR 77.1(c)) activities, strategies, or interventions that support teaching practices that will lead to increased student achievement, graduation rates, and career readiness.

Priority 5--Community-Based Crime Reduction Efforts.

To meet this priority, an applicant must: (1) demonstrate how it will partner with an organization that conducts high-quality activities focused on the re-entry of formerly incarcerated individuals or on community-based crime reduction activities, such as an organization supported by a U.S. Department of Justice (DOJ) Innovations in Community-Based Crime Reduction Program grant, a grant authorized under the Second Chance Act, as reauthorized under the Formerly Incarcerated Reenter Society Transformed Safely Transitioning Every Person (FIRST STEP) Act, or DOJ Office of Justice Programs competitive grants related to juvenile justice and delinquency prevention; (2) describe the partner organization's record of success with supporting the re-entry of formerly incarcerated individuals or community-based crime reduction and how their efforts will be coordinated with the PN activities of this grant; and (3) provide, in its application, a memorandum of understanding between it and a partner organization managing the effort. The memorandum of understanding must indicate a commitment on the part of the applicant to coordinate implementation and align resources to the greatest extent practicable.

Types of Priorities:

When inviting applications for a competition using one or more priorities, we designate the type of each priority

as absolute, competitive preference, or invitational through a notice in the *Federal Register*. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

FINAL REQUIREMENTS:

The Assistant Secretary establishes the following application requirements for this program. We may apply one or more of these requirements in any year in which this program is in effect.

To be considered for an award under this competition, an applicant must provide the following—

(1) In addressing the application requirements in sections 4624(a)(4), (5), and (7) of the ESEA, an applicant must clearly demonstrate needs, including a segmentation analysis, gaps in services, and any available data from within the last 3 years to demonstrate needs. The applicant must also describe proposed activities that address these needs and the extent to which these activities are evidence-based (as defined in 34 CFR 77.1(c)). The applicant must also describe its, or its partner organization's, if applicable, experience providing these activities, including any data demonstrating effectiveness.

(2) In addressing the requirement in section 4624(a)(6) of the ESEA, an applicant must provide a description of the process used to develop the application, which must include the involvement of an LEA(s) (including but not limited to the LEA's or LEAs' involvement in the creation and planning of the application and a signed Memorandum of Understanding) and at least one public elementary or secondary school that is located within the identified geographic area that the grant will serve.

(3) An applicant must demonstrate that its proposed project—

(a) Is representative of the geographic area proposed to be served; and

(b) Would provide a majority of the solutions from the applicant's proposed pipeline services in the geographic area proposed to be served.

(4) In addressing the requirement in section 4624(a)(9) of the ESEA, an applicant must describe the process it will use to establish and maintain a family navigation system, including an explanation of the process the applicant will use to establish and maintain family and community engagement.

FINAL DEFINITIONS:

The Assistant Secretary establishes the following definitions for this program. We may apply one or more of these definitions in any year in which this program is in effect.

Family navigation system means a service delivery model that includes coordinators who teach, mentor, and collaborate with students and their families, as well as community members, to choose interventions, treatments, or solutions provided by the grantee and that best meet the needs of students and their families. Students and their families can select services and supports based on available services and individual needs, as well as advocate for additional services.

Graduation rate means the four-year adjusted cohort graduation rate or extended-year adjusted cohort graduation rate as defined in section 8101(25) and (23) of the ESEA.

Indian Tribe means an Indian Tribe or Tribal Organization as defined in section 4 of the Indian Self-determination Act (25 U.S.C. 450b).

Indicators of need means currently available data that describe—

(a) Education need, which means--

(1) All or a portion of the neighborhood includes or is within the attendance zone of a low-performing school that is a high school, especially one in which the graduation rate is less than 60 percent or a school that can be characterized as low-performing based on another proxy indicator, such as students' on-time progression from grade to grade; and

(2) Other indicators, such as significant achievement gaps between subgroups of students (as identified in section 1111(b)(2)(B)(xi) of the ESEA), within a school or LEA, high teacher and principal turnover, or high student absenteeism; and

(b) Family and community support need, which means—

(1) Percentages of children with preventable chronic health conditions (e.g., asthma, poor nutrition, dental problems, obesity) or avoidable developmental delays;

(2) Immunization rates;

(3) Rates of crime, including violent crime;

(4) Student mobility rates;

(5) Teenage birth rates;

(6) Percentage of children in single parent or no-parent families;

(7) Rates of vacant or substandard homes, including distressed public and assisted housing; or

(8) Percentage of the residents living at or below the Federal poverty threshold.

Regular high school diploma has the meaning set out in section 8101(43) of the ESEA.

Representative of the geographic area proposed to be served means that residents of the geographic area proposed to be served have an active role in decision-making and that at least one-third of the applicant's governing board or advisory board is made up of--

(a) Residents who live in the geographic area proposed to be served, which may include residents who are representative of the ethnic and racial composition of the neighborhood's residents and the languages they speak;

(b) Residents of the city or county in which the neighborhood is located but who live outside the geographic area proposed to be served, and who earn less than 80 percent of the area's median income as published by the U.S. Department of Housing and Urban Development;

(c) Public officials who serve the geographic area proposed to be served (although not more than one-half of the governing board or advisory board may be made up of public officials); or

(d) Some combination of individuals from the three groups listed in paragraphs (a), (b), and (c) of this definition.

Segmentation analysis means the process of grouping and analyzing data from children and families in the geographic area proposed to be served according to indicators of need or other relevant indicators to allow grantees to differentiate and more effectively target interventions based on the needs of different populations in the geographic area.

Student achievement means--

(a) For tested grades and subjects--

(1) A student's score on the State's assessments under the ESEA; and

(2) As appropriate, other measures of student learning, such as those described in paragraph (b) of this definition, provided they are rigorous and comparable across classrooms and programs; and

(b) For non-tested grades and subjects, alternative measures of student learning and performance, such as student scores on pre-tests and end-of-course tests; student performance on English language proficiency assessments; and other measures of student achievement that are rigorous and comparable across classrooms.

Student mobility rate is calculated by dividing the total number of new student entries and withdrawals at a

school, from the day after the first official enrollment number is collected through the end of the academic year, by the first official enrollment number of the academic year.

FINAL SELECTION CRITERIA:

The Assistant Secretary establishes the following selection criteria for evaluating an application under this program. We may apply one or more of these criteria in any year in which this program is in effect.

(a) Need for project. In determining the need for the proposed project, the Secretary considers one or more of the following factors--

(1) The magnitude or severity of the problems to be addressed by the proposed project as described by indicators of need and other relevant indicators identified in part by the needs assessment and segmentation analysis; and

(2) The extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including--

(i) The nature and magnitude of those gaps or weaknesses; and

(ii) A pipeline of solutions addressing the identified gaps and weaknesses, including solutions

targeted to early childhood, K-12, family and community supports, and college and career.

(b) Quality of project design. In determining the quality of project design for the proposed project, the Secretary considers one or more of the following factors—

(1) The extent to which the applicant describes a plan to create a complete pipeline of services, without time and resource gaps, that is designed to prepare all children in the neighborhood to attain a high-quality education and successfully transition to college and a career;

(2) The extent to which the project will significantly increase the proportion of students in the neighborhood that are served by the complete continuum of high-quality services; and

(3) The extent to which the proposed family navigation system is high-quality and provides students and their families sufficient services and supports based on available services and individual needs.

This document does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This document does not solicit applications. In any year in which we choose to use these priorities, requirements, definitions, and selection criteria, we

invite applications through a notice in the *Federal Register*.

Executive Orders 12866, 13563, and 13771

Regulatory Impact Analysis

Under Executive Order 12866, the Office of Management and Budget (OMB) must determine whether this regulatory action is "significant" and, therefore, subject to the requirements of the Executive order and subject to review by OMB. Section 3(f) of Executive Order 12866 defines a "significant regulatory action" as an action likely to result in a rule that may--

(1) Have an annual effect on the economy of \$100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities in a material way (also referred to as an "economically significant" rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This final regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

Under Executive Order 13771, for each new regulation that the Department proposes for notice and comment or otherwise promulgates that is a significant regulatory action under Executive Order 12866, and that imposes total costs greater than zero, it must identify two deregulatory actions. For FY 2021, any new incremental costs associated with a new regulation must be fully offset by the elimination of existing costs through deregulatory actions. Because these regulations are not a significant regulatory action, the requirements of Executive Order 13771 do not apply.

We have also reviewed this final regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency--

- (1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

- (2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives

and taking into account--among other things and to the extent practicable--the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives--such as user fees or marketable permits--to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency "to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible." The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include "identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes."

We are issuing these final priorities, requirements, definitions, and selection criteria only on a reasoned determination that their benefits justify their costs. In

choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action does not unduly interfere with State, local, and Tribal governments in the exercise of their governmental functions.

In accordance with these Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. We have determined that these regulations will impose minimal costs on eligible applicants. Program participation is voluntary, and the costs imposed on applicants by these regulations will be limited to paperwork burden related to preparing an application. The potential benefits of implementing the programs—for example, expanding the choices available to parents and students, improving the academic and developmental outcomes of children living in the most distressed communities of the United States—will outweigh any costs incurred by applicants, and the costs of carrying out activities associated with the application will be paid for with program funds. For these reasons, we have determined that

the costs of implementation will be minimal for eligible applicants.

Regulatory Flexibility Act Certification:

The Secretary certifies that this regulatory action will not have a significant economic impact on a substantial number of small entities. The U.S. Small Business Administration Size Standards define "small entities" as for-profit or nonprofit institutions with total annual revenue below \$7,000,000 or, if they are institutions controlled by small governmental jurisdictions (that are comprised of cities, counties, towns, townships, villages, school districts, or special districts), with a population of less than 50,000.

The small entities that this regulatory action will affect are State educational agencies; LEAs, including charter schools that operate as LEAs under State law; institutions of higher education; other public agencies; private nonprofit organizations; freely associated States and outlying areas; Indian Tribes or Tribal organizations; and for-profit organizations. We believe that the costs imposed on an applicant by the priorities, requirements, definitions, and selection criteria will be limited to paperwork burden related to preparing an application and that the benefits of the priorities, requirements, definitions, and selection criteria will outweigh any costs incurred by the applicant.

Participation in the PN program is voluntary. For this reason, the priorities, requirements, definitions, and selection criteria will impose no burden on small entities unless they applied for funding under the program. We expect that in determining whether to apply for PN program funds, an applicant will evaluate the requirements of preparing an application and any associated costs, and weigh them against the benefits likely to be achieved by receiving a PN program grant. An applicant will probably apply only if it determines that the likely benefits exceed the costs of preparing an application.

We believe that the priorities, requirements, definitions, and selection criteria will not impose any additional burden on a small entity applying for a grant than the entity would face in the absence of this regulatory action. That is, the length of the applications those entities would submit in the absence of this regulatory action and the time needed to prepare an application would likely be the same.

This regulatory action will not have a significant economic impact on a small entity once it receives a grant because it will be able to meet the costs of compliance using the funds provided under this program.

Paperwork Reduction Act of 1995: The proposed priorities, requirements, definitions, and selection criteria contain information collection requirements that are approved by

OMB under OMB control number 1894-0006; the proposed priorities, requirements, definitions, and selection criteria do not affect the currently approved data collection.

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance. This document provides early notification of our specific plans and actions for this program.

Accessible Format: On request to the program contact person listed under FOR FURTHER INFORMATION CONTACT, individuals with disabilities can obtain this document and a copy of the application package in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the *Federal Register*. You may access the official edition of the *Federal Register* and the Code of Federal Regulations at:

www.govinfo.gov. At this site you can view this document, as well as all other documents of this Department published in the *Federal Register*, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

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